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MAILED

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**OFFICE OF DIRECTOR
GROUP**

In re Application of:	:	
CHERNICHOVSKI, <i>et al.</i>	:	DECISION ON PETITION
Application No. 09/464,546	:	
Filed: December 15, 1999	:	
Attorney Docket No.: 03022/36039	:	

This is a decision on the petitions filed November 13, 2002, under 37 CFR § 1.137(b) for revival of unintentionally abandoned patent application, for acceptance of previously filed formal drawings and for a refund of the revival fee. The petition for acceptance of the previously filed formal drawing, is being treated as a petition to withdraw the holding of abandonment under 37 CFR § 1.181, for which a fee is not required.

The petition under 37 CFR § 1.181, is **granted**.

The application was held abandoned for failure to timely file new formal drawings as required in the Notice of Allowability of June 06, 2002. A Notice of Abandonment was mailed October 11, 2002.

Petitioner asserts that failure to respond to the drawing requirement of June 06, 2002, was a result of an oral instruction from the Office of Publication. Specifically, the petitioner asserts that on August 07, 2002, the petitioner contacted Examiner Le to question the appropriateness of the drawing change, proposed in the June 06, 2002, Notice of Allowability. At the suggestion of Examiner Le, the petitioner contacted the Publication Branch on August 07, 2002 and was informed that the substitution of "--The--" for "Fig.1," was not correct and the applicant should not take any further action regarding the drawings.

A review of the application file record reveals that in the Examiner's Amendment attached to the Notice of Allowability of June 06, 2002, the examiner required the drawings be amended such that the term "Fig. 1" should be replaced with --The--.

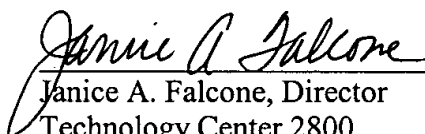
The requirements of 37 C.F.R. 1.84 do not suggest that where there is only a single view used in application to illustrate the claimed invention, it must be replaced with "The." Accordingly, the examiner erred in requiring the drawing change.

For the above-stated reason, the requirement made in paragraph two¹ of the Examiner's Amendment of June 06, 2002, is hereby withdrawn. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The petition for a refund of the revival fee is granted. Accordingly, the \$640.00 petition fee will be refunded to applicant's deposit account number **13-2855**.

The issue fee has been timely paid. The drawing submitted on November 13, 2002, as modified, has been approved by the United States Patent and Trademark Office Draftsman.² Accordingly, the application is being forwarded to the Office of Patent Publication for continued publication processing.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.



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JAF/lmm

¹Paragraph two of the Examiner's Amendment of June 06, 2002 stated the following "The following changes to the drawings have been approved by the examiner and agreed upon by applicant:

In the Figure, "Fig.1" should be replaced with --The--.

In order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes."

²The drawing submitted on November 13, 2002, was amended by removing the word "THE."